

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HIBAH T. LEE,

Plaintiff,

-against-

ORANGE COUNTY JAIL (ADMINISTRATION);  
“JOHN DOE” ORANGE COUNTY FACILITY;  
JOHN “DOE” ORANGE COUNTY SHERIFF  
OFFICE,

Defendants.

ORDER OF SERVICE

7:20-CV-5021 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff, currently held in the Orange County Jail, brings this *pro se* action under 42 U.S.C. § 1983 seeking damages. Plaintiff sues eight defendants, previously named as John Doe Defendants, but who have since been identified by the County Attorney for the County of Orange in response to this Court’s Valentin Order dated August 25, 2020. (Docs. 8, 13). Plaintiff filed an Amended Complaint which now names the previous John Doe Defendants as Defendants Lawrence Catletti, Eric Colby, Vincent Dichiaro, Keith Kiszka, Anthony Mele, James Potter, Jesse Weed, and Michael Zappolo. (Doc. 15).

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summonses and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and Amended Complaint until the Court reviewed the pleading and ordered that summonses be

issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Lawrence Catletti, Eric Colby, Vincent Dichiaro, Keith Kiszka, Anthony Mele, James Potter, Jesse Weed, and Michael Zappolo through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

### **CONCLUSION**

The Clerk of Court is directed to mail a copy of this order to Plaintiff.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Lawrence Catletti, Eric Colby, Vincent Dichiaro, Keith Kiszka, Anthony Mele, James Potter, Jesse Weed, and Michael Zappolo and deliver to the U.S. Marshals Service all documents necessary to effect service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge*

*v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

**SO ORDERED:**

Dated: New York, New York  
November 5, 2020

A handwritten signature in black ink, appearing to read 'PHM', is written over a horizontal line.

PHILIP M. HALPERN  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Captain Lawrence Catletti  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
2. Sergeant Eric Colby  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
3. Captain Vincent Dichiaro  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
4. Sergeant Keith Kiszka  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
5. Colonel Anthony Mele  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
6. Captain James Potter  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
7. Lieutenant Jesse Weed  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924
8. Lieutenant Michael Zappolo  
Orange County Jail  
110 Wells Farm Road  
Goshen, New York 10924